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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of	)	
NYNEX Telephone Companies	)	CC Docket No. 96-128
Offer of Comparably Efficient Interconnection to Payphone Service Providers	)	CC Docket No. 91-35

COMMENTS OF THE AMERICAN PUBLIC COMMUNICATIONS COUNCIL ON NYNEX TELEPHONE COMPANIES' CEI PLAN

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SUMMARY

NYNEX's CEI plan does not contain enough information to enable the Commission and interested parties to tell whether its plan meets the requirements of the Payphone Orders and Computer III. Thus, the Commission should require NYNEX to refile its Plan and subject it to the same public commenting period as its initial filing. To the extent that information is provided, NYNEX does not comply with the Commission's CEI requirement.

First, NYNEX has not provided federal tariffs despite the Commission's explicit directive that

> any basic network services or unbundled features used by a LEC's operations to provide payphone services must be similarly available to independent payphone providers on a nondiscriminatory, tariffed basis. Those unbundled features or functions must be tariffed in the state and federal jurisdiction.

and that

> LECs must file with the Commission tariffs for unbundled features consistent with the requirements established in the Report and Order.

Only "the basic payphone line for smart and dumb payphones" is to be tariffed exclusively at the state level.

Further, NYNEX's state tariffs do not fully unbundle coin line features from the underlying line. It is thus difficult to determine with certainty the differences in rates for the "basic payphone line" and hence the rate for the coin line functionality. For example, the Commission must require NYNEX to provide single rates for answer supervision service

and screening service applicable to both COCOT lines and coin lines. The Commission must also require NYNEX to disclose its pricing methodologies for COCOT and coin line service, to ensure that they are nondiscriminatory and that there is no subsidy for NYNEX's payphones.

In addition to these tariffing issues, there are several issues that relate specifically to NYNEX's offering of coin lines. While NYNEX often offers coin line service "subject to the availability of facilities," NYNEX does not indicate where in fact coin line service is or is not available. NYNEX must disclose how it is providing payphone service in areas where coin lines are not available.

NYNEX coin line tariffs also require operator assisted intraLATA and local calls to be routed to NYNEX. The Commission's Payphone Orders make clear that the subscriber has the right to choose the carrier for operator-assisted calls and that non-emergency 0- calls should be sent to the presubscribed OSP. Forcing the PSP to give up this right in order to obtain a coin line is discriminatory and further vitiates the utility of the coin line to the IPP industry.

It is feasible for NYNEX to offer a coin-line or coin-line equivalent service that is free from the above discriminations. Such a service is currently offered by Ameritech in Illinois under the name "ProfitMaster." NYNEX should be required to make a similar service available generally at the same rates under which it provides coin-line service to its own payphones.

In the area of service order processing, installation, maintenance and repair service, NYNEX does not make clear that its practices regarding maintenance and repair will be nondiscriminatory by explicitly stating the practice it will follow with respect to its existing base. The Commission should require NYNEX to clarify that it will not share personnel with its payphone division in providing service order processing, installation, maintenance and repair service.

NYNEX should be required to describe its line number assignment policies. NYNEX also does not address nondiscrimination in assignment of screening codes. Under the Commission's Payphone Orders, a "discrete" screening code is required to enable interexchange carriers to track calls for compensation. To the extent that NYNEX payphones are assigned a unique screening code, while independent payphones are provided a screening code that requires reference to an external database to ascertain that the originating line is a payphone, NYNEX's CEI offering is discriminatory. Assignment of a unique screening code only to coin lines would give NYNEX's payphones a tremendous advantage in the collection of per-call compensation, apparently eliminating any need for NYNEX's payphone operation to rely on the time consuming and error-prone LEC verification process. Accordingly, the Commission should require NYNEX to clarify that it will assign a unique screening code to IPP providers.

NYNEX does not address whether intraLATA operator services used by NYNEX will be part of NYNEX or remain part of the regulated service. NYNEX must specify what network operator functions support NYNEX and how they will be available on the same basis to independent payphone providers.

Finally, U S West does not meet the Commission's CEI requirements regarding CPNI and Semi-Public Payphones.

The Commission should direct NYNEX to refile its plan or amend it to comply with CEI requirements. The plan must then be made available for public comment for a period comparable to the comment period for the initial plan.

TABLE OF CONTENTS

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COMMENTS OF THE AMERICAN PUBLIC COMMUNICATIONS COUNCIL ON NYNEX TELEPHONE COMPANIES' CEI PLAN

Pursuant to the Commission's January 13, 1997 Public Notice, the American Public Communications Council ("APCC") submits these comments on the NYNEX Telephone Companies ("NYNEX") CEI Plan, filed by NYNEX on January 3, 1997.

DISCUSSION

NYNEX's comparably efficient interconnection ("CEI") plan lacks sufficient information to allow the Commission (and interested parties) to evaluate whether the Commission's nondiscrimination requirements will be met.[1] NYNEX (like the other LECs) provides very little information in its CEI plan, hindering evaluation of the CEI plan's

[1] As one example, NYNEX's plan does not specify whether it will provide signaling information tones ("SIT"). In the absence of true answer supervision, SIT must be provided to IPP providers because if SIT do not precede operator intercept messages, the operator intercept messages are likely to be incorrectly treated as completed calls.

compliance with the Commission's Orders[2] by interested public commenters and the Commission. As addressed below, the Commission should require NYNEX to refile its CEI plan and to provide all information required to fully assess all CEI equal access parameters and nonstructural safeguards for the provision of payphone services.

Moreover, in the event that NYNEX provides *additional information* in its reply, as BellSouth and Ameritech did with their replies after withholding it from their initial CEI submissions, then the Commission should permit interested parties the same opportunity to review it and comment on it that was provided for the initial filing. Otherwise NYNEX will have effectively evaded the Commission's requirement that the CEI plans be subject to public comment.

To the extent that NYNEX does provide information, in numerous instances Nynex's CEI Plan fails to comply with the CEI equal access parameters and nonstructural safeguards. These deficiencies are addressed below.

A LEC must provide basic network services and unbundled functions used by its payphone operations to IPP providers on a "comparably efficient" and "nondiscriminatory" basis. Comparably efficient interconnection requirements are not met simply because a LEC provides the same tariffed services that the LEC uses for its own payphone operations. These basic network services and unbundled functions must be available to IPP providers

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2 Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Notice of Proposed Rulemaking, 11 FCC Rcd 6716 (1996), Report and Order, FCC 96-388, released September 20, 1996 ("Payphone Order"), Order on Reconsideration, FCC 96-439, released November 8, 1996 ("Reconsideration Order").

on a *functionally equivalent* basis; i.e., they must be *as useful* to IPP providers as they are to the LEC. The Commission must carefully evaluate the LEC's CEI plan to ensure that the LEC's offerings are *effectively* as well as *formally* nondiscriminatory.

As discussed below, the coin line service currently offered to IPP providers is not useful to IPP providers because it does not enable them to send operator-assisted calls to the OSP of their choice. Moreover, while NYNEX's tariffs are not clear, to the extent that it does not permit IPP providers to select their own local, directory assistance or Directory Assistance Call Completion rates, the coin line service is not useful.

For these reasons[3], the Commission must ensure that the differential between "customer owned, coin operated telephone" ("COCOT") service charges and coin line

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3 The LECs cannot satisfy either CEI or Section 276's competitive mandate by making available a single offering of network features and functionalities that forces any competitor who wants to use the network features and functionalities to compete by offering the same prices and the same package of the LECs payphone entity. Yet, as described below, that is what the NYNEX proposes to do. Under any circumstances, such an offering falls short of CEI and Section 276.

NYNEX's conduct is aggravated by the context in which this offering is made. Because IPP providers were denied any opportunity at all to interconnect to the coin line functions of the Bell Companies' networks, IPP providers were forced to invest in payphone instrument-based technology in order to provide the basic call rating functions and call control functions that are essential to the operation of a coin payphone. Thus, for many IPP providers it is impractical, at least in the near future, to subscribe to the coin line services that the LECs use for their own payphone operations. The IPP providers have already made substantial investment in instrument-implemented payphones and the necessary support for those instruments. Conversion to coin line service in the short run would effectively strand their investment in instrument-based technology. Unless the Commission is vigilant to ensure that the LECs do not undermine IPP providers until they can effectively choose between the central office based support now being made available and phone-based technology, the LECs will be able to extend their discriminatory practices.

service charges reflect true costs and are nondiscriminatory.[4] As addressed below, the Commission should require NYNEX to describe the methodologies it used to determine its rates for coin line and COCOT service.

NYNEX also must be required to state in its CEI plan how many of its payphones in each jurisdiction are subscribed to COCOT service and how many are subscribed to coin line service. This information is essential in order to understand the manner in which NYNEX intends to provide payphone service and the extent of any discriminatory impact resulting from improper tariff structures and charges. In order for the Commission to effectively determine whether NYNEX's CEI Plan has eliminated subsidies and discrimination, the Commission needs to know the extent to which NYNEX continues to rely on network services that are not effectively available to independent providers.

I. TARIFFED "COCOT" AND "COIN LINE" SERVICES

A. The Plan Does Not Include Federal Tariffs For Coin Line Features

A basic CEI requirement is that the LEC must file copies of applicable federal tariffs with its CEI plan. The Reconsideration Order unequivocally requires that:

> any basic network services or unbundled features used by a LEC's operations to provide payphone services must be similarly available to independent payphone providers on a nondiscriminatory, tariffed basis. Those unbundled features or functions must be tariffed in the state and federal jurisdiction.

[4] In NYNEX tariffs, "COCOT" service is called "Public Access Lines (PAL)" service. Coin line service is called "Public Access SmartLine (PASL) Service."

Reconsideration Order, ¶ 162 (emphasis added). In the next paragraph, the Reconsideration Order states:

> LECs must file with the Commission tariffs for unbundled features consistent with the requirements established in the Report and Order.

The only service that LECs are not required to tariff at the federal level is "the basic payphone line for smart and dumb payphones." Reconsideration Order, ¶ 163. NYNEX's plan clearly cannot be approved until it has filed all required federal tariffs.

B. NYNEX's State Tariffs Do Not Unbundle Coin Line Features From The Basic Payphone Line

As discussed above, the Commission's Order on Reconsideration made clear that "any basic network services or unbundled features used by a LEC's operations to provide payphone services must be similarly available to independent payphone providers on a nondiscriminatory, tariffed basis" at the state and federal levels, while "the basic payphone line" is to be unbundled and tariffed at the state level only. Reconsideration Order, ¶ 162. The structure of NYNEX's tariffs does not permit any effective comparison of the charges for various services and service elements. Moreover, NYNEX has not tariffed "the basic payphone line" separately from network services and unbundled features.

There are also various ambiguities and inconsistencies that hinder analysis of whether subsidies and discrimination between COCOT line services and coin line services have been eliminated. Under the Reconsideration Order, the "basic payphone line" must be tariffed at the same rate for both coin line service and COCOT line service, so that the additional charges for network services and unbundled features available only with coin lines can be effectively determined. Because the "basic payphone line" is not tariffed at a unitary rate, and network features used with NYNEX's COCOT and coin lines are not unbundled, NYNEX has not met the Commission's CEI requirements. Accordingly, the Commission should reject NYNEX's CEI plan and require NYNEX to comply with the Commission's unbundling requirements. Only then will the Commission be able to calculate the additional charge for the "smarts" in the coin line service that is applicable in each state, and to determine whether the COCOT service charges are disproportionately high, and thus subject to discrimination vis-a-vis coin line charges.

C. NYNEX Must Be Required To Disclose Its Methodology For Pricing COCOT Lines And Coin Lines

NYNEX's overall rate levels for COCOT lines and coin lines vary substantially from state to state,[5] and the differential between COCOT and coin line charges vary between approximately $4 to $9 per line per month. This differential between COCOT and coin line charges is substantially less than in some other states, such as Florida, where the differential ranges from $16 to $25. See Comments of the Southeastern Public Communications Coalition on BellSouth's CEI Plan, filed December 30, 1996, at 7. Clearly, the differential must be sufficient to recover the cost of providing coin line

[5] It is not possible to say by exactly how much the rates vary because NYNEX does not include complete tariffs for each state; in most cases, NYNEX submits only tariff revisions. Current COCOT rates are not necessarily included since it is only the coin lines that are being added, and hence only coin line rates may be included. To the extent the material in the text is sketchy, it is because NYNEX's submission is sketchy.

functionality, or there is discrimination and subsidy favoring NYNEX, which is the primary beneficiary of low coin line rates.

Further, rate comparisons between COCOT lines and coin lines are extremely difficult. To the extent COCOT rates are included in the tariffs submitted with the NYNEX CEI plan at all, there are not COCOT lines and coin lines with the exact same feature packages so that an exact rate comparison is possible. See and compare N.Y. tariff, Section 3, pp. 15, 18 with N.Y. tariff, Section 3, pp. 12th revised 6th revised 9.1, and 9th revised 11.2. Such confusing and incomparable tariffs are prima facie suspect. See 47 C.F.R. § 61.2.

Under Section 276 of the Act, the Commission is required to ensure that all subsidies and discrimination in favor of Bell company payphones are eliminated. As the above examples demonstrate, satisfying the Commission's Section 276 obligations necessarily requires close scrutiny of NYNEX's rate levels for the basic services offered in connection with its COCOT and coin line services, especially since coin line services, at least for the near future, can be effectively used predominantly by NYNEX payphones only.[6]

At a minimum, NYNEX must disclose the rate methodologies used to develop its COCOT and coin line service charges, so that the Commission can ensure that the same pricing methodology was used for each service, and that there is no subsidy for the coin

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[6] Such scrutiny is even more important to the extent that the coin line services are structured to prevent IPP providers from selecting their own rates and OSPs, as addressed below.

line service. If disparate pricing methodologies are used so that a lower "contribution" is provided from NYNEX's coin line rates than from its COCOT line rates, this would demonstrate that NYNEX is (1) discriminating (2) and either providing a subsidy for its own payphone operation or pricing its COCOT services in excess of the cost-based rates that the Payphone Order requires.

Moreover, the Commission requires LEC's intrastate tariffs for payphone services and unbundled features to be cost based. Reconsideration Order at ¶ 163. The cost-based rates must be determined under the Commission's new services test, which is described at 47 C.F.R. § 61.49(g)(2). Id. at ¶ 163 n.492. NYNEX's CEI plan, however, does not demonstrate how the basic payphone line charges and the rates for unbundled features set out in its state tariffs are cost based. Accordingly, the Commission should require NYNEX to disclose its methodology and demonstrate that its rates are cost based, and if necessary, require NYNEX to file cost-based tariffs at the state level, before its CEI plan can be approved.

D. Coin Line Issues

1. Availability of Coin Line Service

NYNEX provides coin line service only "subject to the availability of facilities." See, e.g., N.Y.P.S.C. 900 -- Telephone, Sec. 3, at 14. NYNEX does not specify in its CEI plan to what extent coin line service is unavailable, or whether any payphones in its embedded base are located in areas where coin line service is "unavailable." NYNEX must be required to disclose in which areas coin line service is "unavailable" and how many, if any, payphones it has currently installed in such areas. Of course, to the extent that NYNEX has new or embedded payphones in such areas, it must be required to convert such payphones to COCOT service. Otherwise, NYNEX would be in the position of providing coin line service to itself while claiming that it is "unavailable" to IPP providers.

2. Subscriber-Selected Call Rating

Subscriber-selected call specific rating is not available from NYNEX. See e.g., N.Y.P.S.C. No. 900 -- Telephone, Sec. 3, at 15; Conn. No. 2 -- Telephone, Sec. 3 at 11-12.

As APCC, New Jersey Payphone Association ("NJPA"), and Georgia Public Communications Association ("GPCA") have previously argued, providing a coin line that rates calls only at the end user rates used by the LEC's own payphone division is patently discriminatory and spoils any utility the coin line service would otherwise have for IPP providers. See, e.g., Petition of NJPA for Partial Reconsideration and Classification, filed October 21, 1996, at 3-7. IPP providers subscribing to coin lines are effectively forced to adhere to the same rates charged by the NYNEX-affiliated payphone competitor. For example, they are precluded from developing innovative rate structures such as "call anywhere in the United States for 25 cents per minute" -- an increasingly popular approach that has been shown to increase coin traffic at many payphones.

In fact, NYNEX's tariffs indicate it does not even permit call specific rating for local rates. Payphone providers other than NYNEX cannot set the initial rate or time increment, the over-time periods, or any of the rates corresponding to these periods for local calls.[7] See e.g., Connecticut No. 2 -- Telephone, Sec. 3, at 11-12. Payphone providers are forced to use the LEC's rate structure. This is not comparably efficient interconnection. Furthermore, this is a direct violation of the Payphone Order. The Commission concluded that the market should set the compensation amount for all calls, including local calls. Payphone Order at ¶ 55-62. Accordingly, the Commission should require NYNEX to permit payphone providers to set the initial and over-time rates and corresponding time periods for local calls.

The fact that the rate used in rating intraLATA sent-paid and local calls is specified in a NYNEX tariff does not make the rate selection feature nondiscriminatory. The purpose of the rate is to apply to sent-paid payphone calls. To say that the rate is "selected" by NYNEX rather than its payphone division is simply an artifice to avoid CEI compliance.

To meet CEI requirements, NYNEX must permit IPP providers to set the initial time period, the over-time periods, and ***all*** rates corresponding to these periods for local calls. In other words, IPP providers should not have to use the NYNEX payphone division's preferred local rates. Accordingly, the Commission should require NYNEX to

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[7] An example of an initial rate is $0.25 for the first 5 minutes. An example of an overtime rate is $0.05 for each additional 3 minute period after the initial 5 minute period. Ameritech, for example, provides coin lines that provide for PSP to set the initial rate from their payphones, but require IPPs to use Ameritech's tariffed initial timing, overtime rates and overtime timing that apply to Ameritech payphones. See Ameritech's Reply Comments on its CEI Plan for Pay Telephone Services, filed January 17, 1997 in this Docket, at 8-9. This is not comparably efficient interconnection because the payphone provider is forced to use the Ameritech payphone rate structure.

clarify in its amended or re-filed CEI plan that payphone providers can set the initial and over-time rates and time periods for local and other calls.[8]

Likewise, NYNEX does not specify how directory assistance rates, or the rates for Directory Assistance Call Completion, are set. Thus, NYNEX should clarify in its refiled CEI plan that payphone providers can set directory assistance rates and the rates for Directory Assistance Call Completion.

3. Operator Service Provider ("OSP") Selection

NYNEX does not specify whether PSPs are entitled to select the OSP for intraLATA operator-assisted calls. To the extent NYNEX requires PSPs to use NYNEX Operator Services, its CEI plan is inconsistent with Section 276.

Section 276 provides that PSPs are entitled to select the operator service provider ("OSP") for intraLATA operator-assisted calls. Therefore, Nynex's CEI plan is inconsistent with Section 276. Further, with respect to 0- calls, the Commission has stated that while states can require that 0- calls be routed to LECs for emergency purposes, when a 0- call is not an emergency call, the call should be sent to the OSP selected by the payphone service provider ("PSP"). Payphone Order, ¶259.

Forcing a PSP to give up its right to select the presubscribed OSP in order to obtain a coin line is discriminatory and further vitiates the utility of the coin line to the IPP industry. NYNEX should be required to refile its CEI plan with instructions to amend its

[8] In fact, Southwestern Bell's tariffs indicate that it permits individual payphone providers to set coin line end user rates for intraLATA toll calls. Thus, NYNEX cannot claim that subscriber-selected call rating is technically infeasible.

tariffs to provide that all non-emergency operator assisted calls will be sent to the provider selected by the PSP.

* * *

NYNEX cannot reasonably claim that it is infeasible to allow coin line subscribers to select the presubscribed OSP. For example, as discussed in the filings of NJPA and GPCA in the proceedings leading to the Payphone Order,[9] Ameritech currently provides this capability through its ProfitMaster service in Illinois, which provides the coin rating and coin control functions that characterize coin line service, and is thus the functional equivalent of coin line service.[10]

II. SERVICE ORDER PROCESSING, INSTALLATION, MAINTENANCE AND REPAIR SERVICE

A. Generally

NYNEX does not provide significant information about the procedures it will follow regarding service order processing, installation, maintenance and repair service. NYNEX essentially states that it will provide installation and repair on an equal basis. It does not describe its installation and repair procedures.

Further, the plan does not state how maintenance and repairs will be handled for the installed base, where no network interface has yet been installed. Even though no

9 Copies of this material will be provided on request.

10 The Commission should "benchmark" the unbundled services offered by one LEC against those offered by another. See Interconnection Order, CC Dkts. Nos. 96-98 and 95-185, FCC 96-325 (released August 8, 1996) (subsequent history omitted) and 47 CFR § 51.305(c)(3) (if interconnection is once provided at a point in a network, it is presumed feasible in similar networks).

interface may have been installed yet, a demarcation point can and should be identified to determine at what point wire maintenance should be charged separately to NYNEX's payphone division as "inside wire" maintenance and at what point wire maintenance may be included as part of the tariffed access service.[11] NYNEX should be required to amend its plan to state its specific practices with respect to the demarcation point.

Further, NYNEX says nothing about service order processing. NYNEX must be required to disclose whether its payphone operations personnel will have direct access to automated service order processing systems. If such access is provided to NYNEX's payphone operations, of course, it must also be provided to independent providers using the same procedures.

Additionally, NYNEX does not state in its CEI plan whether NYNEX will share personnel between its regulated operations and its payphone division. If personnel are shared between NYNEX payphone operations and NYNEX regulated operations, then the ordering party (the payphone division) could also be the service provider (the LEC) and preferential treatment of NYNEX payphone operations could occur. Additionally, if NYNEX regulated operations personnel perform functions that involve both receiving installation, maintenance or repair orders and scheduling the installation, maintenance or repair, then the identity of the ordering party is known (i.e., whether the ordering party is

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[11] The Commission only grandfathered the location of existing LEC payphones, citing the cost and difficulty of moving existing payphones. See Payphone Order at ¶ 151. Of course, the Commission did not refuse to require LECs to identify whether wire maintenance costs should be allocated to regulated or deregulated operations. Contra BellSouth Reply, filed January 15, 1997 in CC Docket No. 96-128 at 27.

the NYNEX payphone division or an IPP) and discrimination could occur when the shared personnel schedules the installation, maintenance or repair service. NYNEX must explain its personnel sharing policies and how it intends to ensure that there will be no discrimination to the extent that personnel sharing takes place, especially in the areas of service order processing, installation, maintenance and repair.

III. NUMBERS AND SCREENING CODES

A. Number Assignments

The Payphone Order requires LECs to be nondiscriminatory in assignment of line numbers to payphones. Payphone Order, ¶ 149. NYNEX's plan does not address the assignment of line numbers.[12] Since this issue is specifically addressed in the Payphone

[12] For example, assignment to payphones of line numbers in 8000 to 9000 range provides a distinct advantage in the prevention of fraud because they alert overseas operators to refrain from completing collect calls to such numbers. (On domestic calls, IXCs usually determine whether to complete collect calls by accessing LIDB and checking for the presence of billed number screening on the line. According to AT&T, it is not practical for overseas operators to access LIDB to determine the presence of billed number screening on a line to which a collect call is being placed.) IXCs frequently attempt to collect charges for incoming collect calls placed to payphones from overseas, even though the payphone is subscribed to billed number screening. Numbers in the 8000 to 9000 range were made available only relatively recently to IPP providers. (While the Plan indicates that 8000-9000 services were assigned to IPP providers '[w]henever possible" as of 1992, it does not indicate how NYNEX determined when such assignment was "possible." For example, did IPP providers have the same priority as NYNEX's own payphones, or was there a pool of numbers reserved for NYNEX's own use?) By contrast, these numbers have been available to LEC payphones for many years. Consequently, APCC believes that 8000 and 9000 series numbers are assigned to a much higher percentage of the installed base of LEC payphones than the percentage they represent of the installed base of IPPs. NYNEX should be required to allocate the numbers assigned to the existing base of payphones, without charge, so that an equal percentage of LEC payphones and IPPs are assigned 8000 and 9000 series numbers. See Payphone Order, ¶ 149.

Order, NYNEX's plan should indicate what its number assignment policy is and how the policy is applied to NYNEX's payphone division and other PSPs.

B. Screening Codes

NYNEX's CEI Plan fails to provide detail on the types of screening service NYNEX will offer to independent and NYNEX payphones. However, NYNEX filings in another docket suggest that NYNEX will continue discriminating in favor of its own payphones in the provision of screening service. NYNEX must be ordered to discontinue such discriminatory treatment.

Prior to the Payphone Order, the Commission ordered LECs to provide an improved version of originating line screening ("OLS") that would enable IXCs to uniquely identify calls originating from IPP providers using "COCOT" lines. Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, Third Report and Order, FCC 96-131, released April 5, 1996.[13] Traditionally, IPP providers using COCOT lines have been assigned the "07" code, which merely indicates the presence of calling restrictions and can be assigned to a variety of non-payphone lines. LEC payphones, by contrast, benefit from a unique "27" code associated with coin lines.

NYNEX has indicated that it has implemented the Commission's requirement in most of its central offices by offering "Flex ANI," a service that permits the transmission of

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[13] However, since the OLS proceeding was initiated prior to enactment of Section 276, the Third Report and Order and subsequent orders have not addressed LECs' obligations under Section 276 and the Payphone Order. See Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, Petition Pertaining to Originating Line Screening Services, Memorandum Opinion and Order, CCB/CPD File Nos. 96-18 et al., released December 20, 1996, n. 28.

a "70" code that uniquely identifies COCOT lines to those IXCs subscribing to Flex ANI. However, IXCs have not been and are not subscribing to Flex ANI. The IXCs are therefore receiving only the "07" code associated with the OLS to which the IPP providers subscribe when they subscribe to COCOT lines.

To the extent NYNEX provides IPP providers using COCOT lines with the "07" code, which *does not* uniquely identify calls as payphone calls, and by contrast, provides its own payphones, which use primarily "coin lines," with a "27" code that does uniquely identify calls as payphone calls, NYNEX violates the Commission's CEI requirements.

The "07" code for COCOT lines is clearly inferior to the unique "27" code provided to LEC payphones using coin lines, and such inferior treatment is inconsistent with the nondiscrimination requirement of Section 276(a). Moreover, the importance of unique screening codes for payphones has been heightened as a result of the Commission's orders in Docket No. 96-128. The Commission's Order on Reconsideration in the payphone docket confirms that PSPs must ensure transmission of codes that enable IXCs to track calls. Accordingly, LECs are required to provide services "that provide a discrete code to identify payphones that are maintained by non-LEC providers." Reconsideration Order at ¶94.

Having a unique screening code automatically transmitted to the IXC provides Bell company payphones with a tremendous advantage in the collection of per-call payphone compensation. With a unique screening code, the IXC knows immediately that a call is compensable, and should not have to take any further steps in order to calculate the compensation due for each particular ANI invoiced by an IPP provider. If no unique screening code is transmitted, by contrast, the IXC must check some reliable data base in order to confirm whether the call is from a payphone and therefore, compensable under the Payphone Order. APCC's experience with the data base currently used to administer flat-rate compensation is that the data base information is frequently unreliable and imposes substantial delays and costs in collecting compensation. Frequently, compensation for a given period is never collected on certain payphones because of the difficulties of securing LEC verification. Transmitting a unique screening code for COCOT lines as well as coin lines evidently would make it unnecessary for PSPs to have their collection of compensation continually delayed or denied due to the highly error-prone LEC verification data base currently in use.

Therefore, by transmitting a unique code on all coin lines while transmitting a non-unique code on COCOT lines, NYNEX's discriminating heavily in favor of its payphone division, providing it with a great advantage in the collection of per-call compensation from IXCs.

Accordingly, the Commission should order NYNEX to clarify that it will provide PSPs using COCOT lines with a screening code that uniquely identifies their lines as payphone lines. Unless IXCs are required to subscribe to codes similar to Ameritech's Flex ANI code in all areas, NYNEX must be required to reconfigure the existing codes, which are universally available as part of the access services to which IXCs *do* subscribe, so that a unique code is available for COCOT lines as well as coin lines.

IV. OPERATOR SERVICES

NYNEX's CEI plan does not address the intraLATA operator services offered with its public payphones. NYNEX should be required to specify whether it considers operator services to be part of it's deregulated payphone service or whether it considers operator services to be a separable service that is not "ancillary" to its public payphone service.

If operator services are part of NYNEX's deregulated public payphone service, NYNEX should explain whether it is providing such services (1) in the payphone or (2) by reselling network-based operator functions. Further, NYNEX should be required to identify the network functions supporting such services and to indicate how those same functions will be offered to PSPs on a nondiscriminatory basis.

If operator services are a separable regulated service that is not "ancillary" to NYNEX's deregulated payphone service, NYNEX still must demonstrate that it is not subsidizing its payphone operations or discriminating between its payphone operations and other PSPs in the provision of such services. For example, if NYNEX is offering a commission to its payphone operations for presubscribing its payphones to NYNEX's operator service, then at a minimum, such commissions must also be available to independent PSPs on the same terms and conditions.[14] At a minimum, NYNEX must

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14 However, since NYNEX is not using an affiliate for its provision of payphone (Footnote continued)

submit a copy of its presubscription contract with its payphone operations and to state that it will offer the same terms and conditions to other IPP providers.

V. CPNI AND SEMI-PUBLIC SERVICE CUSTOMERS

Regarding customer proprietary network information ("CPNI"), NYNEX incorporates by reference into its CEI plan its August 3, 1995 amendment to its CEI plan for payment processing services, and indicates that it will follow those procedures except where inconsistent with the requirements of Section 222 of the Act and pending the outcome of the FCC's CPNI proceeding. Plan at 18. This approach leaves several questions unanswered regarding how it is applied to protect, under nondiscriminatory conditions, the CPNI of PSPs, as well as the CPNI of NYNEX's existing "semi-public" customers.

NYNEX does not explain to what extent it has modified the procedures described in the August 3 amendment to ensure equal -- and equally protected -- access by all payphone service providers ("PSPs") to the customer-proprietary network information ("CPNI") of current customers of tariffed semi-public service. For example, NYNEX states that it will treat CPNI regarding PSPs and their subscribed services as restricted CPNI that "will not be made available to or accessible by any other payphone service provider, absent

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(Footnote continued)
service, it is questionable whether the Commission's accounting rules allow NYNEX to pay itself a commission for presubscribing its payphones to NYNEX's operator services. Such a transfer of regulated revenues out of regulation may be permissible under the Commission's affiliate transactions rules. However, there is no express permission for such treatment under the cost allocation rules governing nonregulated operations that are not provided through a separate affiliate.